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Counsel for Defendant/Counterclaimant Martin Tripp

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

TESLA, INC., a Delaware corporation,

Plaintiff,

vs.

MARTIN TRIPP, an individual,

Defendant.

MARTIN TRIPP, an individual,

Counterclaimant,

TESLA, INC., a Delaware corporation,

Counterdefendant

Case No. 3:18-cv-00296-LRH-CBC

**DEFENDANT/COUNTERCLAIMANT
MARTIN TRIPP'S MOTION TO SEAL
DAUBERT MOTION TO EXCLUDE
EXPERT OPINION AND TESTIMONY
UNDER LR IA 10-5**

1 Defendant/Counterclaimant Martin Tripp moves to seal his *Daubert* Motion to
2 Exclude Expert Opinion and Testimony [ECF No. 86] (“*Daubert* Motion”) filed
3 contemporaneously with this motion. For the reasons below, the Court should **deny** this
4 motion.

5 Pursuant to ¶ 12 of the October 10, 2018 Protective Order in this case [ECF No. 43],
6 a party may not file any document designated CONFIDENTIAL or CONFIDENTIAL-
7 ATTORNEYS’ EYES ONLY without complying first with LR IA 10-5.

8 Although Tripp files this motion to be in compliance with the Protective Order,
9 nothing in the *Daubert* Motion warrants sealing. Since the inception of this case, Tesla has
10 abused the Protective Order by lavishly designating anything and everything as
11 CONFIDENTIAL or CONFIDENTIAL-ATTORNEYS’ EYES ONLY. Tesla even
12 designated its own Rule 26 disclosure statement as CONFIDENTIAL.

13 In this instance, there are three attachments to Tripp’s *Daubert* Motion that Tesla has
14 designated CONFIDENTIAL: (1) the expert report of Tesla’s damages expert Jeffrey H.
15 Kinrich (Exhibit C to the *Daubert* Motion); Tesla’s March 8, 2019 Responses to
16 Interrogatories 16 and 22, (Exhibit D to the *Daubert* Motion); and Kinrich’s Deposition
17 (Exhibit E to the *Daubert* Motion).

18 Under ¶ 8 of the Protective Order, “A Producing Party may designate Discovery
19 Material as ‘CONFIDENTIAL’ if it contains or reflects confidential, proprietary, and/or
20 commercially sensitive information of any party.” None of the three exhibits above
21 remotely qualify. The only specific information Tesla has ever identified that might qualify
22 as “proprietary” is the wage information for specific Tesla employees contained in Exhibits
23 1 and 3 to Kinrich’s expert report. While Tripp disputes that such wage information is
24 “confidential, proprietary, and/or commercially sensitive,” Tripp has nevertheless redacted
25 the specific wage information from Exhibits 1 and 3 to Kinrich’s report.

26 Tripp therefore requests that the Court **deny** this motion to seal.
27
28

1 DATED this 14th day of August, 2019.

2 TIFFANY & BOSCO, P.A.

3
4
5 By /s/William M. Fischbach III

6 Robert D. Mitchell

7 William M. Fischbach III

8 Fletcher R. Carpenter

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12 *Counsel for Defendant/Counterclaimant*

PROOF OF SERVICE

I am employed in the County of Maricopa, State of Arizona. I am over the age of 18 and not a party to the within action; my business address is Tiffany & Bosco, P.A. 2525 E. Camelback Road, Suite 700, Phoenix, Arizona 85016.

On August 14, 2019, I served the following described as:

DEFENDANT/COUNTERCLAIMANT MARTIN TRIPP'S MOTION TO SEAL

on the following interested parties in this action:

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[X] (BY E-MAIL) By transmitting the above documents to the above e-mail addresses.

[X] (STATE) I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

EXECUTED on this 14th day of August, 2019 at Phoenix, Arizona.

/s/ Kaleigh Stilchen